

VZCZCXR00415
RR RUEHDA
DE RUEHAK #5952 2891443
ZNR UUUUU ZZH
R 161443Z OCT 06
FM AMEMBASSY ANKARA
TO RUEAWJA/DEPT OF JUSTICE WASHDC
RUEHC/SECSTATE WASHDC 9413
RUEATRS/DEPT OF TREASURY WASHDC
INFO RUEHSW/AMEMBASSY BERN 0330
RUEHRH/AMEMBASSY RIYADH 0618
RUEHDA/AMCONSUL ADANA 1232
RUEHIT/AMCONSUL ISTANBUL 1469
RUEHBS/USEU BRUSSELS

UNCLAS ANKARA 005952

SIPDIS

SENSITIVE
SIPDIS

TREASURY FOR OTI RLOEFFLER AND JSERAFINI

E.O. 12958: N/A

TAGS: KTFN PTER EFIN ETTC TU

SUBJECT: TERRORISM FINANCE: COURT REJECTS GOVERNMENT ATTEMPT TO WITHDRAW AL-QADI APPEAL

REF: A. ANKARA 5440

¶B. SECSTATE 147545

¶1. (SBU) On October 12, the Administrative Chamber of the Danistay (Council of State) rejected the Government's application to withdraw its appeal of the al-Qadi case. As explained reftel, the Government (Prime Ministry and MFA) had filed appeals of the Danistay's July 20 ruling that invalidated the Council of Ministers' 2001 freeze of al-Qadi's assets. However, Prime Minister Erdogan later instructed his subordinates to withdraw the appeal (i.e. let the July 20 pro-al-Qadi ruling stand). It is this application that the Administrative Chamber has now rejected.

¶2. (SBU) A judge from the Administrative Chamber told us that the Chamber's action will allow the appeal process to go forward and that al-Qadi's assets remain frozen in the meantime. During a thirty-day comment period, the Government or al-Qadi have an opportunity to comment, and the Administrative Chamber will then begin to consider the appeal. MFA officials were unsure how long the appeals process would take. The Administrative Chamber cited the public interest in rejecting the withdrawal.

¶3. (SBU) Comment: MFA officials were relieved that the court had allowed the appeal to go forward, thereby avoiding a situation in which the Prime Minister's action would have put Turkey out of compliance with UN Security Council Resolution ¶1267. The danger of such non-compliance remains, however, albeit at a later date, should the appeals court uphold the July 20 decision and unfreeze the assets.

¶4. (SBU) Action request: In a meeting prior to the Administrative Chamber's latest decision, MFA Director General for Legal Affairs Cinar Aldemir was very interested in the possibility of additional information from U.S. experts on the issues of designation and listing, as well as de-listing under 1267 committee procedures. In particular, he is interested in how to strike a balance between deterring the financing of terrorism and human rights and due process concerns. Given Aldemir and others' interest and the global implications of a court reversal of a 1267 freeze in Turkey, post requests a USG presentation on this topic, as offered in ref b.

WILSON